

WILL MAKE A TEST CASE

Hawaiian Sugar Co. Escapes the Tax.

ABANDONED MILL CONSIDERED LOSS

Tax Appeal Court Gives an Opinion From Which Tax Assessor Will Appeal.

The Tax Appeal court yesterday rendered an opinion sustaining the Hawaiian Commercial and Sugar Company in its appeal from the assessment of \$270,444 on income, claimed as exempt as a loss. The decision means the saving to the sugar company of \$5,400 in income tax, but Assessor Pratt will carry the case to the Supreme Court.

The Hawaiian Commercial claimed that it could deduct from its income all losses which occurred during the year, and the amount so shown and the value of abandoned property should be deducted from the profits of the year. Pratt claims that under this contention the revenue from income tax would be heavily cut, as the same exemption could be claimed, not only by the other plantations, but by private property owners. Thus, if a man made improvements during the year, he could claim a deduction on the loss of the old buildings which might be abandoned for the new. It is for this reason that the appeal is taken, for it is said that the Tax Court's decision practically invalidates the principal part of the income tax law.

The court holds that "prior to December 1, 1901, the company was the owner of a mill and building at Spreckelsville, being a nine-roller mill, making 140 to 150 tons of sugar, or 175 tons at the highest, in 24 hours. Owing to the increase of cultivated area the site became inconvenient. A new mill was erected at Puuene, three miles from the old site, having a capacity of 300 tons in 24 hours, with a possibility of increase to 450 tons. The old buildings were abandoned and were of no use. Residences, shops, warehouses, and a railroad system of 50 miles of track also became worthless, except as old material. The sum of \$11,695.79 was received from the sale of the old mill and \$14,596.54 from the railroad. The acts of the company were done in good faith, pursuant to business requirements.

"It can hardly be questioned that a mill destroyed by fire or other natural cause was a loss, even though a new and superior one of greater capacity was built and the value of the whole estate enhanced. But other causes than natural ones might operate more or less effectively to necessitate a new mill: In the case before the court business necessity is indicated. Good management and the fuller development of the appellant's property required the abandonment of the old properties and the construction of new, and the large amount expended in so doing, as shown by the evidence in the case of the new mill, \$998,108.91, from inception to date of July 1, 1902, and in case of new railroad, \$101,709.95, would indicate that such works were not lightly undertaken but were in the nature of business necessities. . . . The law does not specify how a loss must be incurred, though it is reasonable to suppose that it is intended to cover any loss properly incurred in connection with the business concerned. In this case it appears that the abandonment of the old mill and properties were required of appellant and not sought by it. . . .

"As to the amount of such loss in this case, specific details and figures are not given, but an estimate is furnished by witnesses of character and standing in the community, one of whom has great familiarity with the sugar industry in general, and as manager, with the mill and plantation property of the appellant in particular. "It is in evidence that the amount necessary to replace the old properties superseded and abandoned would be not less than \$860,000. The claim for loss of \$270,444.72 does not by comparison appear unreasonable under the conditions.

"The court finds that the appellant is entitled to deduct from the gross amount of income as 'Losses otherwise incurred:'

"Loss on old mill and mill buildings: \$150,749.52
Loss on old buildings: 10,000.00
Loss on railroads: 109,695.90

"Total: \$270,444.72

COMMITTEE WILL VOTE ON FEDERAL BUILDING SITE

(Continued from Page 1.)

This was only accomplished after Senator Carter had made a hard fight for the making of an alternative proposal, saying that he believed that there would be action in this case, and delay without it. The chairman said that he would oppose this plan, as he feared the alternative would be accepted. Mr. Schaefer declared that he would never vote against his convictions that the customs house should remain, and that if he was convinced that there was to be only one building other than the custom house, then he would vote for the Bishop street plot.

Commissioner Eustis said that he had greatly enjoyed the visit which he made to Hilo. He found the people united on the site which they wish to be used for the postoffice, a block of public land in the center of the city, opposite the First Bank on Wai'anue street. He visited the volcano and went down into Kau, leaving the steamer to see the Cook monument and returning to the ship at Kailua.

GIRVIN ON THE GORE LOCATION

Editor Advertiser:—There are so many sites for a postoffice, many of which have advocates and are not without advantages, that on the ground of feasibility for that purpose the number suggested might lead to confuse the masses in coming to a unanimous decision. When, however, the projected use of the building is for both a post-office and for general federal offices the proposition is narrowed down.

The reputation of our islanders for keeping abreast with the current literature of the world, their appreciation of music, their love of the fine arts, etc., would lead us to believe that they will all take an interest in the opportunity now afforded for selecting a suitable site for the magnificent building which rumor says the general government is about to donate for the use and embellishment of our beautiful capital. Therefore the question as to where it should be erected is one of great moment to us, as our actions will now saddle future generations either with an incubus or an extremely useful and ornamental structure. An incubus, if misplaced, or an embellishment if suitably placed.

It is a well established maxim that every citizen owes it to the community that he do not erect an unsightly structure. How much more so that the government while building the essential offices for the conduct of its affairs select designs which have artistic merit. This has always been done in Honolulu. The traveler is delighted with our Executive building so admirably placed in the center of large and well kept grounds, from which not one inch should be taken for other purposes. Our beautiful Kaimuki and Kaahumanu and High schools, our fine fire engine buildings, our Judiciary, our churches and even our Police Station were all erected not only for their usefulness but that they might be ornaments to the city. Every one appreciates the manner in which the U. S. government has embellished the waterfront. In fact all will unite in admitting that the authorities have always taken into consideration the esthetic effect which a building will have on the populace.

Therefore, I contend that the first thing that should be considered in the matter of a postoffice and federal building is the position it should occupy that its ornate beauty would be most perceptible. The cost of the site and imaginary difficulties in securing it is a secondary consideration. If the Kilauea Art League were consulted I unhesitatingly prophesy that they would declare for the Gore site.

As far as usefulness and convenience are concerned it must be admitted it is as eligible as any of the sites suggested and I think more so. But as for an addition to the center which Union Square with its surroundings already is, the Gore site is preeminently the place for this grand building, which is to be the nucleus of the city. Should it be there located Mr. Irwin, or his successors in title, will be compelled to build on the property adjoining the opera house a structure commensurate with the surroundings, and Union Square will be for all time the center of the city.

It is rarely that an individual or a corporation has the designing of a whole city or we would meet with many which would be more beautifully designed. On the contrary, all of them have grown up, like Boston with its crooked streets, which are merely enlargements of the ancient cow-paths. But when opportunity offers for improving such cities the people appreciate every attempt either at straightening and widening streets or erecting their buildings on such sites as will

beautify the city. When there is a force behind the advocate of a particular site, which has ulterior ends in view, which induces him to circulate petitions in its favor or to belittle others, such advocacy is looked on with suspicion. When he tells you that in the near future the postoffice will be an unvisited structure and that pneumatic tubes will lead to every native hut for the delivery of mails we do not have far to look for the "nigger in the fence!" Should he boldly come out and show the convenience of access to the masses of the site he advocates, of the ornament to the whole city its erection there would be, and if in addition he can point to the already erected public structures in the vicinity and that such a neighborhood will be the center of the city forever we should give weight to his argument. Does not the Gore site fill the bill?

JAS. W. GIRVIN.

A Young Man's Religion.

One of the best fitted young men to talk manly Christianity is one who played on his college football team for four years, was a crack athlete there, and at the same time was president of the Amherst College Young Men's Christian Association. W. A. Anderson of Oahu College has forgotten neither his football nor his Christianity, and will address the men in the Y. M. C. A. Hall at 4 o'clock tomorrow on "A Young Man's Religion."

WEEDON INTERESTS YOUNG CHRISTIANS

He Addresses the Riverside Y. M. C. A. on the Attractions of Hawaii.

In spite of other attractions last evening the lecture on Hawaii by Walter C. Weedon of Honolulu at the Y. M. C. A. hall was attended by a fair-sized audience, though not as large as the character of the entertainment merited. Mr. Weedon has been a resident of the Islands since the sixties, and is very familiar with the history of the country and its people. The views showing the principal places of interest and important industries of the country were excellent, ably illustrating his description of the island possessions.

The speaker was introduced by William Collier, who said that one of the interesting topics of the day is that of our island possessions.

Mr. Weedon said that though covering an area less than that of our own county, Hawaii is the center of all the commerce of the Pacific. The manufacture of sugar is the chief industry of the islands and is unexcelled by that of any other equal area in the world. Chinese are most profitably employed in its production, and he urged that the exclusion of the race from the islands would prove a great hindrance to that important business. The Chinese can be safely entrusted with the business, while the Japanese cannot be relied upon.

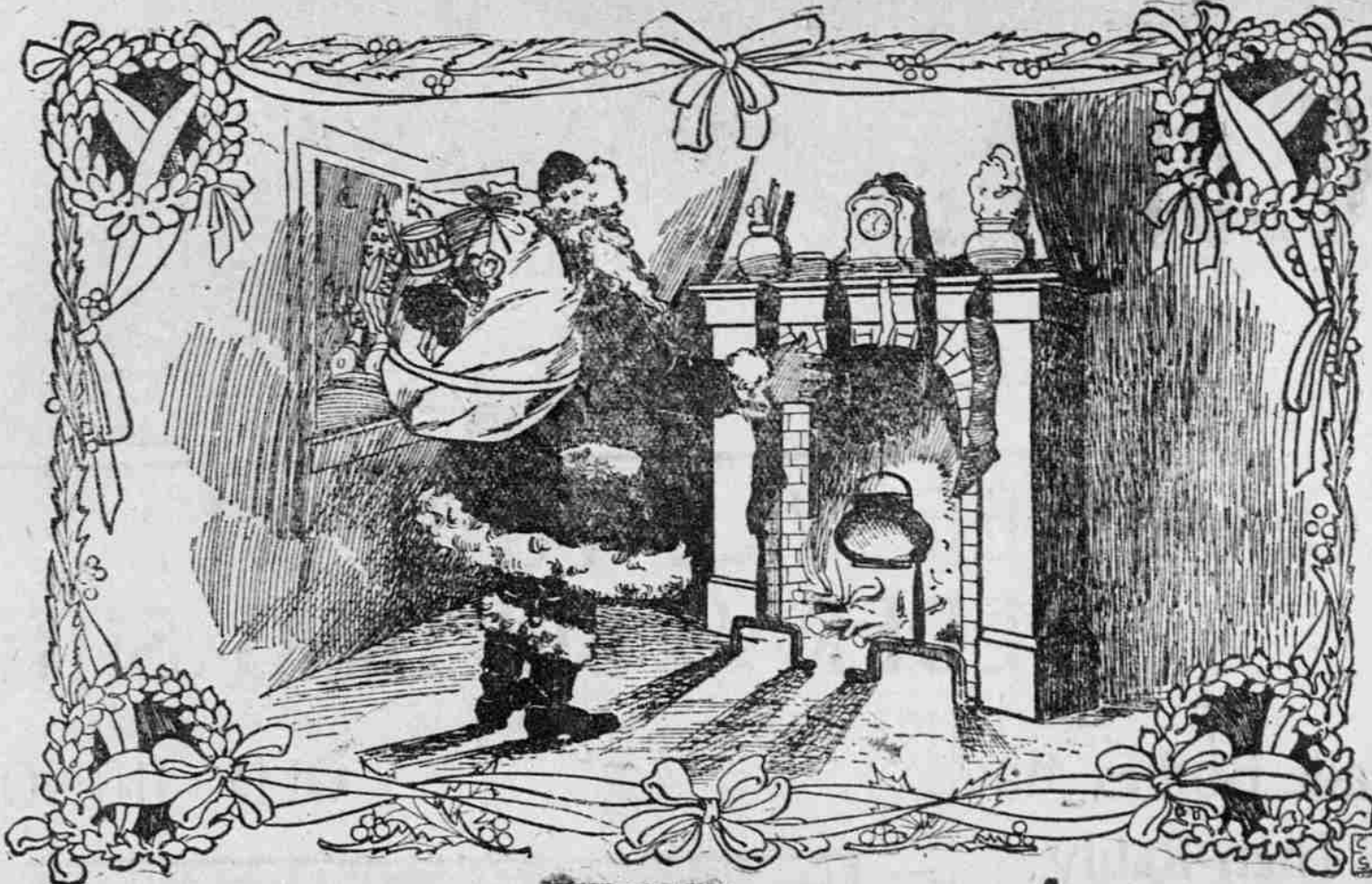
The Hawaiian is of a kindly disposition, always courteous. They never beg. If one is without food he needs only report to his neighbors and they promptly supply all his needs. They are not akin to the negro, as is supposed, but may be related to the Samoan. Though their lips are thick, their hair is long and straight and their complexion is of a copper color. The Hawaiian alphabet consists of but twelve letters; five vowels and seven consonants. The speaker favored the audience with the song, "I Love to Tell the Story," translated into the native tongue.

He showed a picture taken at the inauguration of Governor Dole, also of Mr. Dole's residence, and his kindly words for Mr. Dole were greeted with applause.

One of the views presented was that of the beautiful Y. M. C. A. building in Honolulu, where so much was done for our boys in blue on their way to the Philippines. Mr. Weedon himself was one of the eleven charter members of the association, which has established in 1869.

Hawaii has now a population of 160,000 all told, and Mr. Weedon advises the young men to go west to Hawaii of the Pacific.—Riverside Daily Press.

To prevent croup, begin in time. The first symptom is hoarseness; this is soon followed by a peculiar rough cough, which is easily recognized and will never be forgotten by one who has heard it. The time to act is when the child first becomes hoarse. If Chamberlain's Cough Remedy is freely given, all tendency to croup will soon disappear. Even after the croupy cough has developed, it will prevent the attack. There is no danger in giving this remedy as it contains nothing injurious. It always cures and cures quickly. Benson, Smith & Co., Ltd., wholesale agents, sell it.



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THE COURT WILL MOVE

Judge Gear to Join His Bailiff and Clerk.

By the first of the year a session of the second division of the First Circuit Court can be held in San Francisco without much trouble. W. S. Ellis, bailiff to Judge Gear, left a couple of weeks ago for the Coast, to escape a summons in the Sumner case, and F. H. Loucks, the clerk of the court, left on the Zealandia Wednesday. Judge Gear will leave on the Sonoma on the 23rd, so that the entire court machinery of the second division will be on the Coast within a short time.

Judge Gear stated yesterday during the hearing of the bank case that he intended to go to the Coast on the 23rd, but set the matter for hearing on December 26th, saying he would assign it to some other judge in case he could not hear it.

When the case of W. T. Summers et al. vs. Cecil Brown et al. was called up yesterday morning A. Lewis, appearing for the respondents, asked for a continuance, claiming that ten days' notice of the quo warranto proceedings is required. Judge Gear finally set the matter for December 26th. Smith & Lewis appear for the respondents, and Henry Highton and J. Alfred Magoon for the petitioners.

COURT NOTES.

The United Chinese Society's troubles are again before the courts. Wong Kwai and the other petitioners have asked for a retrial of the case because they are estopped from appeal by reason of the loss of the transcript of evidence. Mrs. Pauline Neumann Rodiek makes affidavit that she misplaced or destroyed the shorthand notes taken by her in the case.

Lee Hung Wai has applied to Judge Robinson for the legalization of the adoption by Ho Tim of his child, Lee Bak Wong. Both father and mother consent to the adoption and say that Ho Tim is a person of good moral character and able to care for the child. W. K. Azbill has made a final report in the matter of the estate of Chas. Roesch, deceased. There is a balance of \$489.70 in the estate.

C. P. Iaukea has applied for appointment as administrator of the estate of Kaaua. The estate is worth \$5,500.

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TOOTHPICK HAS EXPRESSION WHEN WORN BY HERR BERGER

Leader of Hawaii's Famous Band Utilizes Yankee Invention to Evoke Harmonious Effects Among His Musicians.

There is expression even in a toothpick when Kappelmeister Berger holds one in his teeth while directing the Hawaiian government band. Berger is a veritable Souza when he stands in the midst of his players and wields the baton, for almost every muscle in his body is at work. Long years of association with him have caused the band boys to observe every little tremor which crosses his face or causes his coat to wrinkle, and they respond melodiously.

But the hand baton is nothing when compared to his toothpick. Most people have believed that Herr Berger merely wears a toothpick because it gives an air of nonchalance to his movements, but it plays an important part in the tempo, expression and technique of the band. The toothpick is shifted about between the leader's lips until the first crash is over and then when the baton cautions one division to modify its tone, the toothpick suddenly points upward and another division knows that more expression is wanted from that source.

When the entire band is playing along in an easy, swinging march, the toothpick assumes a horizontal position which seems to indicate to the band men that they are on the right track. Then the toothpick goes upward again and sure enough the time changes and one division seems to be playing along by itself but in perfect melody with the rest. Up and down, like the baton of the old singing master of the schools of nearly a century ago, the toothpick

wields its influence in the band. Truly, the Kappelmeister has ways of his own which would astonish the best masters of the art.

Herr Berger is seriously considering the composing of a special march in honor of Cable Day, and if it is produced he will probably dedicate it to Mr. Mackay.

SEEMS TO BE PLENTY OF MONEY

From the small demand upon the audit office for the 19 per cent due on fire claims, it would seem as if money is not as tight in the Islands as the hard times cries would indicate. Hardly one-third of the claimants have called for warrants of the second batch issued the first of the week, and they are seemingly content to leave their money on deposit with the Territorial Treasury.

There seems to be no way to account for the failure of the claimants to come for their money, though a few months ago they were clamoring daily for its payment. Of course, many of the amounts are small, but there seems to be no demand for even the large warrants. The largest that has been paid was that of Kaunakapili Church, the warrant for over \$5,000 having been presented some time ago. The total award to the church was \$55,000.

The second batch of Japanese warrants has not been taken out. They were all assigned to S. Ozaki, and he is now on one of the other islands.